

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Aquila, Inc. ) Application No. NG-0041  
d/b/a Aquila Networks (Aquila), )  
Omaha, seeking individual rate ) PLANNING CONFERENCE ORDER AND  
increases for Aquila's Rate Area ) NOTICE OF HEARING  
One, Rate Area Two, and Rate Area )  
Three. ) Entered: January 9, 2007

BY THE COMMISSION:

On November 15, 2006, Aquila, Inc., d/b/a Aquila Networks (Aquila) filed an application seeking individual general rate increases for Aquila's Rate Area One, Rate Area Two, and Rate Area Three. Notice of the application was published in The Daily Record, Omaha, Nebraska on November 17, 2006. The deadline for the filing of interventions was December 18, 2006. Interventions were filed by Cornerstone Energy, Inc. (Cornerstone), Kinder Morgan, Inc. and the Public Advocate.

To facilitate the participation of all interested parties and expedite the Application to hearing and decision, a planning conference was held in this matter on December 20, 2006, at the offices of the Nebraska Public Service Commission. The following persons were present at the planning conference: Commissioners Frank Landis, Anne Boyle and Lowell Johnson, Angela Melton and Laura Demman on behalf of the Commission; Roger Cox and Jack Shultz, Public Advocates; Douglas Law and Dan Mechtenberg on behalf of Aquila; Richard Haubensak on behalf of Cornerstone; and Russ Westerhold on behalf of Kinder Morgan. Larry Headley and Glenn Dee of Aquila participated by telephone.

Based on the input received at the planning conference, and recognizing the Commission's duty to reach a final decision in this matter within 210 days pursuant to *Neb. Rev. Stat. § 66-1838(15)*, this order sets forth the applicable limitations, deadlines, and timeframes for completion of the items listed below:

## Objections and Responses to Aquila's Pre-filed Direct Testimony and Exhibits

Objections to any portion of Aquila's pre-filed direct testimony or exhibits shall be submitted in writing to the Commission no later than **January 26, 2007**. Any party wishing to respond to objections made to Aquila's direct testimony or exhibits shall do so by filing such responses with the Commission no later than **February 9, 2007**.

### **Petitions for Intervention**

The Public Advocate, Kinder Morgan, Inc. and Cornerstone timely filed petitions for formal intervention.

The Commission being fully advised in the premises finds that the respective petitions of the Public Advocate, Kinder Morgan, Inc. and Cornerstone, should be granted.

### **Discovery Deadlines and Limitations**

- A. Service of Discovery Requests. All data requests, information requests, or notices of deposition shall be served upon all individuals on the service list.
- B. Responses to Data and Information Requests. All data and information requests served by parties to this proceeding shall be responded to in writing by the party to whom the requests are served within ten (10) business days following the date of receipt unless additional time is agreed to by the parties or allowed by order of the Commission. Responses shall be served upon the propounding party, the Public Advocate, and the Commission. Any other party to this proceeding may receive responses to data and information requests upon written request.
- C. Depositions; Limitation. Depositions may be taken pursuant to the Nebraska Supreme Court Discovery Rules. Depositions shall be taken at a time and place agreed upon by the parties. In the Commission's discretion, deposition transcripts will be admissible at the hearing on this matter. Any party wishing to introduce deposition testimony, except for the purpose of cross or redirect examination, shall do so by the deadlines established herein for prefiled evidence. No party shall be entitled to depose any person who has not been identified as a witness in this matter, either in pre-filed direct testimony or in a witness list, except upon application to the Commission and for good cause shown.
- D. Objections and Motions to Compel. Unless the Commission determines that an oral argument is necessary, discovery disputes will be resolved based on the written submissions of the disputing parties, any sworn affidavits attached thereto, and materials, if any, provided for *in camera* inspection. A party

seeking a motion to compel must demonstrate that it has in good faith conferred or attempted to confer with the other party in an effort to secure discovery without Commission action. Material that is subject to a successful motion to compel shall be produced within five (5) business days of receipt of the order granting the motion to compel, or such other date as ordered by the Commission.

- E. Although not parties to this matter, Commission staff will be permitted to serve on any party data requests, requests for production or requests for additional information.

### **Prefiled Evidence; Deadlines; Objections**

- A. General Instructions. All evidence to be offered at hearing, objections thereto, and responses to those objections shall be filed by the dates set forth herein. A party offering prefiled testimony or exhibits as evidence at the hearing shall provide a copy to the court reporter. All prefiled exhibits must be numbered. All parties should eliminate argumentative, cumulative, or otherwise objectionable passages in testimony they intend to file. Parties are encouraged to limit objections and to enter into stipulations in order to facilitate the presentation of evidence and completion of this proceeding.
- B. Objections. All objections to prefiled evidence shall specifically and succinctly identify the testimony or exhibit to which the objection is directed and the specific objection raised regarding each such portion of the testimony or exhibit. Failure to comply with the deadlines for objections will result in waiver of the objections.
- C. Service. All prefiled testimony and exhibits must be served upon all parties on the service list on or before the deadline for submission of such prefiled evidence.
- D. Deadlines. The Commission finds that it is necessary to extend the 210-day time period for final action pursuant to Neb. Rev. Stat. § 66-1838(15)(c) in order to allow the Commission sufficient time to properly fulfill its responsibilities in this proceeding. The following deadlines shall apply:

- 1) All data requests, requests for information, and notices of deposition shall be served upon Aquila no later than **March 1, 2007**;
- 2) Formal Intervenor's testimony, work papers, and exhibits shall be filed no later than **March 16, 2007**;
- 3) Objections to Formal Intervenor's testimony, work papers, and exhibits shall be filed no later than **March 27, 2006**;
- 4) Responses to the objections filed with respect to Formal Intervenor's testimony, work papers, and exhibits shall be filed no later than **April 3, 2007**;
- 5) Aquila shall submit all data requests, requests for information, and notices of deposition on or before **April 5, 2007**;
- 6) Aquila, Formal Intervenor's and Commission staff shall submit any supplemental discovery requests prior to **April 17, 2007**;
- 7) Aquila's rebuttal testimony and exhibits shall be filed no later than **May 8, 2007**;
- 8) Objections to Aquila's rebuttal testimony and exhibits shall be filed no later than **May 18, 2007**;
- 9) Responses to the objections filed with respect to Aquila's rebuttal testimony, work papers, and exhibits shall be filed no later than **May 22, 2007**.

### Service

The official service list for these proceedings is set forth in Appendix A hereto. All persons and interested parties are responsible for maintaining an accurate service list.

For purposes of this proceeding, the Commission will assume that documents served in the following manner were received as set forth below:

<u>Method of Service</u>	<u>Date of Receipt</u>
In person or by agent	Date of filing
Regular mail, certified mail, or registered mail	Three days after mailing
Facsimile sent before 3:00 p.m. Central Clock Time on a business day	Date facsimile sent
Email sent before 3:00 p.m. Central Clock Time on a business day	Date email sent

All documents transmitted by facsimile or email shall be followed with a paper copy via mail.

All parties are encouraged to cooperate and engage in negotiations; however, the conduct of negotiations does not relieve the parties of their obligation to meet filing deadlines.

#### **Hearing Date; Prehearing Conference**

The hearing on Aquila's Application shall take place on **May 30, 2007, at 10:00 a.m. CDT and if necessary continue into May 31, 2007, at 10:00 a.m. and June 1, 2007, at 10:00 a.m. CDT** at the offices of the Nebraska Public Service Commission. The Commission anticipates that a prehearing conference will be conducted prior to the hearing at a date and time to be established by the Commission. Issues pertaining to hearing procedures, use of demonstrative exhibits, and timing of post-hearing briefs will be addressed at that time.

#### **Hearing Fee and Accommodations**

Aquila has agreed to provide the court reporter for the hearing on this matter. Therefore, the hearing fee of one hundred twenty-five dollars (\$125.00) for each half-day should be waived consistent with Commission policy.

If auxiliary aids or reasonable accommodations are needed for attendance at the meeting, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call the Commission at (402) 471-0213 (TDD) or the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920

(Voice). Advance notice of at least seven days is needed when requesting an interpreter.

O R D E R

IT IS THEREFORE ORDERED that the deadlines and requirements set forth herein are hereby adopted and the 210-day time period for final action is extended pursuant to *Neb. Rev. Stat. § 66-1838(15)(c)* in the above-captioned matter.

IT IS FURTHER ORDERED that a hearing in the above-captioned docket will be held on **May 30, 2007, at 10:00 a.m. CDT and if necessary continue into May 31, 2007, at 10:00 a.m. and June 1, 2007, at 10:00 a.m. CDT** in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska.

IT IS FURTHER ORDERED that Aquila has agreed to provide the court reporter for the hearing on this matter. Therefore, the hearing fee of one hundred twenty-five dollars (\$125.00) for each half-day shall be waived consistent with Commission policy.

IT IS FINALLY ORDERED that the Public Advocate's and Cornerstone's Petitions for Formal Intervention are granted.

MADE AND ENTERED at Lincoln, Nebraska, this 9th day of January, 2007.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman:

ATTEST:

Executive Director

**Exhibit A**

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